Internal Revenue
bulletin

Bulletin No. 1998–33
August 17, 1998

HIGHLIGHTS OF THIS ISSUE

These synopses are intended only as aids to the reader in identifying the subject matter covered. They may not be relied upon as authoritative interpretations.

INCOME TAX

Rev. Rul. 98–39, page 4

All events test; cooperative advertising. Under the all events test of section 461 of the Code, an accrual method manufacturer's liability for cooperative advertising services of a retailer is incurred in Year 1, the year the services are performed, provided the manufacturer is able to reasonably estimate the liability, even though the retailer does not submit the required claim form until Year 2. Rev. Proc. 97–37 modified and amplified.

Rev. Rul. 98–40, page 4.

Fringe benefits aircraft valuation formula. For purposes of section 1.61–21(g) of the Income Tax Regulations, relating to the rule for valuing noncommercial flights on employer-provided aircraft, the Standard Industry Fare Level (SIFL) cents-per-mile rates and terminal charges in effect for the second half of 1998 are set forth.

T.D.8776, page 6.

REG–110332–98, page 18.

Final, proposed, and temporary regulations under section 985 of the Code provide guidance regarding certain federal tax consequences arising from the introduction of the euro. A public hearing on the proposed regulations will be held on October 20, 1998.

EMPLOYMENT TAX

Notice 98–43, page 13.

Tax Court review of worker classification and section 530 determinations. This notice describes new procedures that the Service has implemented to comply with new section 7436 of the Code.

ADMINISTRATIVE

Notice 98–39, page 11.

Church plans; nondiscrimination; safe harbors. This notice extends the effective date of the applicable nondiscrimination regulations for certain church plans.

Notice 98–41, page 12.

1998 enhanced oil recovery credit. The enhanced oil recovery credit for taxable years beginning in the 1998 calendar year is determined without regard to the phase-out for crude oil price increases provided in section 43(b) of the Code.

Notice 98–42, page 12.

1998 marginal production rates. This notice announces the applicable percentage to be used in determining percentage depletion for marginal properties for the 1998 calendar year.

Finding Lists begin on page 21.

Department of the Treasury
Internal Revenue Service

Mission of the Service

The purpose of the Internal Revenue Service is to collect the proper amount of tax revenue at the least cost; serve the public by continually improving the quality of our products and services; and perform in a manner warranting the highest degree of public confidence in our integrity, efficiency, and fairness.

Statement of Principles of Internal Revenue Tax Administration

The function of the Internal Revenue Service is to administer the Internal Revenue Code. Tax policy for raising revenue is determined by Congress.

With this in mind, it is the duty of the Service to carry out that policy by correctly applying the laws enacted by Congress; to determine the reasonable meaning of various Code provisions in light of the Congressional purpose in enacting them; and to perform this work in a fair and impartial manner, with neither a government nor a taxpayer point of view.

At the heart of administration is interpretation of the Code. It is the responsibility of each person in the Service, charged with the duty of interpreting the law, to try to find the true meaning of the statutory provision and not to adopt a strained construction in the belief that he or she is "protecting the revenue." The revenue is properly protected only when we ascertain and apply the true meaning of the statute.

The Service also has the responsibility of applying and administering the law in a reasonable, practical manner. Issues should only be raised by examining officers when they have merit, never arbitrarily or for trading purposes. At the same time, the examining officer should never hesitate to raise a meritorious issue. It is also important that care be exercised not to raise an issue or to ask a court to adopt a position inconsistent with an established Service position.

Administration should be both reasonable and vigorous. It should be conducted with as little delay as possible and with great courtesy and considerateness. It should never try to overreach, and should be reasonable within the bounds of law and sound administration. It should, however, be vigorous in requiring compliance with law and it should be relentless in its attack on unreal tax devices and fraud.

Introduction

The Internal Revenue Bulletin is the authoritative instrument of the Commissioner of Internal Revenue for announcing official rulings and procedures of the Internal Revenue Service and for publishing Treasury Decisions, Executive Orders, Tax Conventions, legislation, court decisions, and other items of general interest. It is published weekly and may be obtained from the Superintendent of Documents on a subscription basis. Bulletin contents of a permanent nature are consolidated semiannually into Cumulative Bulletins, which are sold on a single-copy basis.

It is the policy of the Service to publish in the Bulletin all substantive rulings necessary to promote a uniform application of the tax laws, including all rulings that supersede, revoke, modify, or amend any of those previously published in the Bulletin. All published rulings apply retroactively unless otherwise indicated. Procedures relating solely to matters of internal management are not published; however, statements of internal practices and procedures that affect the rights and duties of taxpayers are published.

Revenue rulings represent the conclusions of the Service on the application of the law to the pivotal facts stated in the revenue ruling. In those based on positions taken in rulings to taxpayers or technical advice to Service field offices, identifying details and information of a confidential nature are deleted to prevent unwarranted invasions of privacy and to comply with statutory requirements.

Rulings and procedures reported in the Bulletin do not have the force and effect of Treasury Department Regulations, but they may be used as precedents. Unpublished rulings will not be relied on, used, or cited as precedents by Service personnel in the disposition of other cases. In applying published rulings and procedures, the effect of subsequent legislation, regulations, court decisions, rulings, and procedures must be considered, and Service personnel and others concerned are cautioned against reaching the same conclusions in other cases unless the facts and circumstances are substantially the same.

The Bulletin is divided into four parts as follows:

Part I.—1986 Code.
This part includes rulings and decisions based on provisions of the Internal Revenue Code of 1986.

Part II.—Treaties and Tax Legislation.
This part is divided into two subparts as follows: Subpart A, Tax Conventions, and Subpart B, Legislation and Related Committee Reports.

Part III.—Administrative, Procedural, and Miscellaneous.
To the extent practicable, pertinent cross references to these subjects are contained in the other Parts and Subparts. Also included in this part are Bank Secrecy Act Administrative Rulings. Bank Secrecy Act Administrative Rulings are issued by the Department of the Treasury's Office of the Assistant Secretary (Enforcement).

Part IV.—Items of General Interest.
With the exception of the Notice of Proposed Rulemaking and the disbarment and suspension list included in this part, none of these announcements are consolidated in the Cumulative Bulletins.

The first Bulletin for each month includes a cumulative index for the matters published during the preceding months. These monthly indexes are cumulated on a semiannual basis and are published in the first Bulletin of the succeeding semiannual period, respectively.

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Part I. Rulings and Decisions Under the Internal Revenue Code of 1986

Section 61.–Gross Income Defined

26 CFR 1.61–21: Taxation of fringe benefits.

Fringe benefits aircraft valuation formula. For purposes of section 1.61–21(g) of the Income Tax Regulations, relating to the rule for valuing noncommercial flights on employer-provided aircraft, the Standard Industry Fare Level (SIFL) cents-per-mile rates and terminal charges in effect for the second half of 1998 are set forth.

Rev. Rul. 98–40

For purposes of the taxation of fringe benefits under section 61 of the Internal Revenue Code, section 1.61–21(g) of the Income Tax Regulations provides a rule for valuing noncommercial flights on employer-provided aircraft. Section 1.61–21(g)(5) provides an aircraft valuation formula to determine the value of such flights. The value of a flight is determined under the base aircraft valuation formula (also known as the Standard Industry Fare Level formula or SIFL) by multiplying the SIFL cents-per-mile rates applicable for the period during which the flight was taken by the appropriate aircraft multiple provided in section 1.61–21(g)(7) and then adding the applicable terminal charge. The SIFL cents-per-mile rates in the formula and the terminal charge are calculated by the Department of Transportation and are reviewed semi-annually.

The following chart sets forth the terminal charges and SIFL mileage rates:

Period During Which the Flight Is Taken	*Terminal Charge*	*SIFL Mileage Rates*
7/1/98–12/31/98	$31.81	Up to 500 miles = $.1740 per mile
		501–1500 miles = $.1327 per mile
		Over 1500 miles = $.1276 per mile

DRAFTING INFORMATION

The principal author of this revenue ruling is Felicia Daniels Smith of the Office of the Associate Chief Counsel (Employee Benefits and Exempt Organizations). For further information regarding this revenue ruling contact, Ms. Smith on (202) 622-6050 (not a toll-free call).

Section 451.—General Rule for Taxable Year of Inclusion

26 CFR 1.451–1: General rule for taxable year of inclusion.

Under the all events test of § 461 of the Code, is an accrual method manufacturer's liability to pay a retailer for cooperative advertising services incurred in Year 1 when those services are provided by the retailer, or in Year 2 when the retailer submits the required claim form for those services. See Rev. Rul. 98–39, page 4.

Section 461.—General Rule for Taxable Year of Deduction

26 CFR 1.461–1: General rule for taxable year of deduction.
(Also section 451; 1.451–1.)

All events test; cooperative advertising. Under the all events test of section 461 of the Code, an accrual method manufacturer's liability for cooperative advertising services of a retailer is incurred in Year 1, the year the services are performed, provided the manufacturer is able to reasonably estimate the liability, even though the retailer does not submit the required claim form until Year 2.

Rev. Rul. 98–39

ISSUE

Under the all events test of § 461 of the Internal Revenue Code, is an accrual method manufacturer's liability to pay a retailer for cooperative advertising services incurred in Year 1 when those services are provided by the retailer, or in Year 2 when the retailer submits the required claim form for those services?

FACTS

X, an accrual method taxpayer using a calendar year as its taxable year, manufactures various consumer products, including product M. Retailers engaged in the business of selling merchandise to consumers purchase product M from *X* for resale. In August of Year 1, *X* made a written offer to pay each of these retailers $1 for each case of product M that the retailer purchased from *X* during September, October, and November of Year 1, provided that the retailer advertised *X*'s product M during October or November of Year 1. To qualify for *X*'s payment, the advertising provided by the retailer had to satisfy the requirements set forth in *X*'s offer regarding the format and content of the advertising (including the offering of a discount on product M), and the time for performance of the advertising. *X*'s offer further required that, to obtain payment, the retailer had to submit a claim form and proofs of performance within 90 days after the date that the advertising was performed, verifying that the advertising was performed in accordance with the terms of *X*'s offer.

Y, a retailer that accepted *X*'s offer, ordered 1,000 cases of product M from *X* during September, October, and November of Year 1, and advertised product M in November of Year 1 in a manner that satisfied the requirements of its agreement with *X*. To obtain payment for that advertising, *Y* submitted its claim form and proofs of performance to *X* in January of Year 2.

X is able to make a reasonable estimate of the amount that it is liable to pay *Y* for the cooperative advertising services performed by *Y* in Year 1.

LAW AND ANALYSIS

Section 451 provides rules for determining the taxable year of inclusion for items of gross income.

Section 1.451–1(a) of the Income Tax Regulations provides that under an accrual method of accounting, income is includible in gross income when all the events have occurred that fix the right to

receive such income and the amount thereof can be determined with reasonable accuracy.

Section 461(a) provides that the amount of any deduction or credit is taken for the taxable year that is the proper taxable year under the method of accounting used in computing taxable income.

Section 461(h) and § 1.461–1(a)(2)(i) provide that, under the accrual method of accounting, a liability is incurred, and is generally taken into account for federal income tax purposes, in the taxable year in which (1) all the events have occurred that establish the fact of the liability, (2) the amount of the liability can be determined with reasonable accuracy, and (3) economic performance has occurred with respect to the liability.

Section 461(h)(2)(A)(i) provides that, if the liability of the taxpayer arises out of the providing of services to the taxpayer by another person, economic performance occurs as that person provides the services.

Generally, in a transaction where one taxpayer is accruing a liability to pay another taxpayer, the last event necessary to establish the fact of liability under the all events test of § 1.461–1(a)(2)(i) is the same event that fixes the right to receive income under the all events test of § 1.451–1(a). *See Capital Investments of Hawaii, Inc. v. Commissioner*, T.C. Memo. 1982–80, n. 9 (the reasoning of cases analyzing § 451 is applicable to an analysis under § 461); *Schneer v. Commissioner*, 97 T.C. 643 at 650 (1991) ("the prerequisite of performance of the services prior to any liability on the part of the obligor is an essential to satisfying the all-events test. The right to receive income cannot become fixed before the obligor has an obligation to pay"); *see also* Rev. Rul. 79–266, 1979–2 C.B. 203, and Rev. Rul. 79–410, 1979–2 C.B. 213.

Where a taxpayer's obligations are set forth in a written agreement, the terms of the agreement are relevant in determining the events that fix the taxpayer's obligation to pay. *See, e.g., Decision, Inc. v. Commissioner*, 47 T.C. 58 (1966), *acq.*, 1967–2 C.B. 2.

In general, the event fixing the fact of liability pursuant to an agreement for the provision of services is performance of the services. *See, e.g., National Bread Wrapping Machine Co. v. Commissioner*, 30 T.C. 550 (1958) (performance of services pursuant to a contract was necessary to establish the taxpayer's liability); *Charles Schwab v. Commissioner*, 107 T.C. 282 (1996) (execution of a trade pursuant to a customer order fixes the broker's right to receive the commission income).

Moreover, once the services are performed, the establishment of the fact of liability under the all events test is not delayed by an additional requirement in the agreement that a claim or documentation be submitted to obtain payment, if such act is ministerial. *See Dally v. Commissioner*, 227 F.2d 724 (9th Cir. 1955), *cert. denied*, 351 U.S. 908 (1956) (contractor's right to income was fixed in year it delivered houses, not in later year when a properly certified invoice was submitted, even though the contract specifically provided for payment upon the submission of a properly certified invoice); *Frank's Casing Crew & Rental Tools, Inc. v. Commissioner*, T.C. Memo. 1996–413 (contractor's preparation and sending of the invoices were ministerial acts that did not postpone accrual of income otherwise earned). *See also Continental Tie & Lumber Co. v. United States*, 286 U.S. 290 (1932).

However, in some cases, the requirement that a claim for payment be filed is a condition precedent that delays satisfaction of the all events test for § 461 purposes. In *United States v. General Dynamics Corp.*, 481 U.S. 239 (1987), the Court held that employees must file claims with the employer to establish the fact of the liability to reimburse employees for medical expenses under the all events test. The Court noted that some covered employees fail to file claims with their employer for various reasons, such that an employee's receipt of covered medical services was not sufficient to fix the employer's liability. Thus, the filing of the claim was not a mere technicality.

In the cooperative advertising agreement between *X* and *Y*, the performance required under the agreement is the provision of advertising services. *Y's* submission of a claim form and proofs of performance substantiating that it has performed the advertising according to *X's* specifications is merely the mechanism by which *Y* requests payment for advertising services already performed. Thus, similar to *Dally* and *Frank's Casing*, *Y's* submission of the claim form and proofs of performance is a ministerial act, much like the submission of an invoice. These facts distinguish the cooperative advertising agreement between *X* and *Y* from *General Dynamics* and demonstrate that *Y's* submission to *X* of the claim form and proofs of performance is a mere technicality, not a condition precedent that is necessary to establish *X's* liability for § 461 purposes.

The last event necessary to establish the fact of *X's* liability under the all events test occurred when *Y* performed the cooperative advertising services in Year 1 in accordance with the terms of the contract. *X* can reasonably estimate the amount of its Year 1 liability for the cooperative advertising services performed by *Y*. Economic performance with respect to *X's* liability occurred in Year 1 when *Y* performed the cooperative advertising services. Accordingly, *X* may deduct on its Year 1 federal income tax return its liability for *Y's* cooperative advertising services.

HOLDING

Under the all events test of § 461, an accrual method manufacturer's liability to pay a retailer for cooperative advertising services is incurred in Year 1, the year in which the services are performed, provided the manufacturer is able to reasonably estimate this liability, and even though the retailer does not submit the required claim form until Year 2.

APPLICATION

Any change in a taxpayer's method of accounting to conform with this revenue ruling is a change in method of accounting to which the provisions of §§ 446 and 481 and the regulations thereunder apply. A taxpayer wanting to change its method of accounting for its payments for cooperative advertising services provided by a retailer to conform with this revenue ruling must follow the automatic change in accounting method provisions of Rev. Proc. 97–37, 1997–33 I.R.B. 18, except that the scope limitations in section 4.02, as well as the application procedures in sections 6.03, 6.04, and 6.05, of Rev. Proc. 97–37 do not apply. However, if the taxpayer is under examination, before an appeals of-

fice, or before a federal court with respect to any income tax issue, the taxpayer must provide a copy of the Form 3115, Application for Change in Accounting Method, to the examining agent(s), appeals officer, or counsel for the government, as appropriate, at the same time that it files the copy of the Form 3115 with the national office. The Form 3115 must contain the name(s) and telephone number(s) of the examining agent(s), appeals officer, or counsel for the government, as appropriate.

EFFECT ON OTHER DOCUMENTS

Rev. Proc. 97–37 is modified and amplified to include this accounting method change in the APPENDIX.

DRAFTING INFORMATION

The principal author of this revenue ruling is John P. Moriarty of the Office of Assistant Chief Counsel (Income Tax and Accounting). For further information regarding this revenue ruling, contact Mr. Moriarty on (202) 622-4950 (not a toll-free call).

Section 985–Functional Currency

26 CFR 1.985–1: Functional currency.

T.D. 8776

DEPARTMENT OF THE TREASURY
Internal Revenue Service
26 CFR Part 1

Conversion to the Euro

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final and Temporary regulations.

SUMMARY: This document contains temporary Income Tax Regulations relating to U.S. taxpayers operating, investing or otherwise conducting business in the currencies of certain European countries that are replacing their national currencies with a single, multinational currency called the euro. These regulations provide rules relating to adjustments required for qualified business units operating in such currencies and rules relating to the tax effect of holding such currencies or financial instruments or contracts denominated in such currencies. The text of these temporary regulations also serves as the text of proposed regulations published in REG–110332–98, page 18**.**

DATES: These regulations are effective July 29, 1998.

FOR FURTHER INFORMATION CONTACT: Howard Wiener of the Office of Associate Chief Counsel (International), (202) 622-3870, regarding the change in functional currency rules and Thomas Preston of the Office of Assistant Chief Counsel (Financial Institutions and Products), (202) 622-3930, regarding section 1001 (not toll free calls).

SUPPLEMENTARY INFORMATION:

Background

On March 9, 1998, the IRS issued Announcement 98–18 (1998–9 IRB 44) requesting comments relating to the tax issues for U.S. taxpayers operating, investing or otherwise conducting business in a currency that is converting to the euro. Numerous comments were received. After consideration of these comments, these regulations are adopted as a temporary Treasury decision to provide immediate guidance to taxpayers.

Explanation of Provisions

I. *Background*

The Treaty on European Union signed February 7, 1992, (31 I.L.M. 247) (entered into force November 1, 1993), sets forth a plan to replace the national currencies of participating members (legacy currencies) that meet certain economic criteria with a single European currency (euro). Pursuant to directives of the European Council, the process of converting the legacy currencies into the euro will take place in three phases.

On January 1, 1999, the currency of participating member states of the European Union shall be the euro. At that time, the euro will be substituted for the currency of each state at a conversion rate established pursuant to the Treaty on European Union. Thereafter, the bills and coins of each of the legacy currencies will remain in circulation but will cease to have independent value apart from the euro. On January 1, 2002, euro bills and coins will be introduced into circulation. From January 1, 1999, until June 30, 2002 (transition period), the legacy currencies will remain in circulation as subunits of the euro. The transition period is referred to as the "no prohibition, no compulsion" period because during this time amounts may generally be denominated in the legacy currencies and/or the euro at the option of individuals and businesses. Finally, by July 1, 2002, the legacy currencies will no longer be accepted as legal tender.

On May 3, 1998, the European Union announced the eleven countries that would initially participate in the conversion and the expected rates at which the respective currencies would convert to the euro. The eleven countries are Austria, Belgium, Finland, France, Germany, Ireland, Italy, Luxembourg, Netherlands, Portugal, and Spain. Four current members of the European Union (Denmark, Greece, Sweden, and the United Kingdom) will not participate in the initial conversion to the euro. These countries, along with other countries that later join the European Union, however, may convert their currencies to the euro at some future time.

II. *Temporary Regulations*

1. In General

These temporary regulations provide guidance regarding certain of the federal income tax consequences arising from the introduction of the euro. Consistent with comments received from taxpayers, the regulations generally minimize the tax consequences that arise by reason of the euro conversion. In a limited number of circumstances, however, the Treasury and IRS determined that considerations, such as administrative feasibility, made a different result more appropriate.

The regulations provide guidance with respect to two issues: (i) the circumstances under which the euro conversion creates a realization event with respect to instruments and contracts denominated in a legacy currency, and (ii) the circumstances under which the euro conversion constitutes a change in functional currency for a qualified business unit (QBU) whose functional currency is a legacy currency, and certain consequences thereof.

2. Realization

The temporary regulations provide that the conversion of legacy currencies to the

euro does not result in a realization event under section 1001. This rule is broadly applicable to all situations where the rights and obligations of a taxpayer are altered solely by reason of the euro conversion. Thus, conversion to the euro of legacy currency held by a taxpayer and conversion of legacy currency denominated contractual relationships, financial instruments, and other claims or obligations are not realization events solely as a result of the conversion. In addition, as a result of this rule, exchange gains and losses on section 988 transactions denominated in a legacy currency will not be taken into account until a subsequent realization event with respect to the underlying instrument. For example, when the Dutch guilder is converted into the euro, a U.S. dollar functional currency taxpayer will not recognize either market gain or loss or exchange gain or loss on a fixed interest rate Dutch guilder debt instrument.

Other aspects of the euro conversion may result in taxable events. For example, if an unscheduled fractional principal payment is made on a debt instrument in order to facilitate a rounding convention, this payment is accounted for under the rules governing payments on debt instruments (such as §§1.446–2 and 1.1275–2) and under section 988 (in the case of a section 988 transaction). Other changes may or may not constitute realization events depending on the terms of the changes. For example, accrual periods, holiday conventions or indices on a floating rate instrument may be altered. Whether these changes are realization events must be determined under existing law. See, e.g., §1.1001–3.

Limitations that under otherwise applicable principles prevent or defer the recognition of realized gains and losses continue to apply. Thus, for example, recognition of losses between related parties under section 267 and §1.988–1(a)(10) remain subject to the limitations set forth in those sections.

3. Change in Functional Currency

The regulations provide that QBUs with a legacy functional currency will be deemed to have automatically changed their functional currency to the euro at the beginning of the year they are required to make such change. Because of the significant administrative burdens that will be imposed on QBUs when they are required to change their internal systems to accommodate the introduction of the euro, the regulations provide that a QBU that currently uses a legacy functional currency is deemed to automatically change its functional currency to the euro in the year the QBU changes its books and records to the euro. That change, however, must be made no later than the last taxable year beginning on or before the first day such legacy currency is no longer valid legal tender.

The euro conversion implicates the policy concerns underlying §1.985–5, namely, the preservation of built-in exchange gains and losses arising from the fact that positions that had once been denominated in a nonfunctional currency will now be made or received in a QBU's functional currency.

In the context of the euro conversion, two items are of particular concern in properly accounting for exchange gains and losses: (1) section 988 transactions denominated in a legacy currency other than the QBU's legacy functional currency, and (2) unremitted earnings of a branch with a legacy functional currency different from the home office's legacy functional currency. In both these instances, positions that had previously been accounted for in a nonfunctional currency (against which exchange gains and loses would be computed) will, after the conversion, be accounted for in euros (against which exchange gains and losses would not be computed when a QBU's functional currency is also the euro).

Rather than requiring immediate recognition, as would be required under §1.985–5, the temporary regulations provide special rules for the euro conversion. These rules provide that for affected section 988 transactions (other than transactions in or holdings of nonfunctional currency cash), exchange gains and losses that would have been recognized immediately if the §1.985–5 change in functional currency rules applied will be deferred until otherwise realized. This is accomplished by providing that section 988 transactions continue to be treated as nonfunctional currency transactions under the principles of section 988 even though the remaining payments on the asset or liability will be made in the QBU's new functional currency (i.e., the euro).

In response to comments by taxpayers, an election is provided for QBUs to realize exchange gain or loss on accounts receivable and payable immediately prior to the year of change. A QBU making this election must realize exchange gains and losses on all of its accounts receivable and payable that are legacy currency denominated section 988 transactions. The election responds to the administrative burdens associated with tracking exchange gains and losses on large quantities of accounts receivable and payable. Taxpayers not making the election will continue to treat these positions as section 988 transactions under the general rule described above.

Exchange gains and losses on transactions in, or holdings of, nonfunctional currency cash are recognized immediately because cash accounts are generally turned over rapidly and the administrative burdens in tracking exchange gains and losses outweigh the benefits of deferral.

The regulations also provide special rules for taking into account exchange gain or loss when the taxpayer and a branch of the taxpayer change their functional currencies to the euro. The rules provide that exchange gains and losses on unremitted earnings of affected branches be recognized ratably over a four-year period beginning in the year of change. Some commentators recommended that the principles of section 987 continue to be applied after the conversion. As in the case with cash, however, the Treasury and IRS believe that the administrative burdens for taxpayers and the government as well as the potential for abuse, outweigh the benefit of extended deferral.

These temporary regulations also provide rules for the proper translation of a QBU's balance sheet accounts in a manner that preserves any accrued but unrecognized currency gain or loss. These rules are consistent with the existing §1.985–5, change in functional currency rules.

III. *Other Issues*

Finally, these regulations do not address certain issues that taxpayers have commented upon that are not unique to the euro conversion. In particular, these regulations do not address the deductibility of costs associated with the euro conversion and foreign tax credit mismatches that can occur as a result of tax account-

ing differences between the United States and other countries.

Special Analysis

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedures Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, these temporary regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Drafting Information

The principal authors of these regulations are Howard A. Wiener of the Office of the Associate Chief Counsel (International) and Thomas Preston of the Office of Associate Chief Counsel (Domestic). Other personnel from the IRS and Treasury Department also participated in their development.

* * * * *

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 2. In §1.985–1, paragraph (c)(6) is amended by adding a sentence at the end to read as follows:

§1.985–1 Functional currency.

* * * * *

(c) * * *

(6) * * * For special rules relating to the conversion to the euro, see §1.985–8T.

* * * * *

§1.985–4 [Amended]

Par. 3. In §1.985–4, the last sentence of paragraph (a) is amended by removing the reference "§1.985–2" and adding "§1.985–2 or 1.985–8T" in its place.

Par. 4. Section 1.985–8T is added to read as follows:

§1.985–8T Special rules applicable to the European Monetary Union (conversion to the euro)(temporary).

(a) *Definitions*—(1) *Legacy currency.* A legacy currency is the national currency of a participating member state of the European Union used prior to the substitution of the euro for the national currency of that state in accordance with the Treaty on European Union signed February 7, 1992. The term legacy currency shall also include the European Currency Unit.

(2) *Conversion rate*. The conversion rate is the rate at which the euro is substituted for a legacy currency.

(b) *Operative rules*—(1) *Initial adoption.* A QBU (as defined in §1.989(a)–1(b)) whose first taxable year begins after the euro has been substituted for a legacy currency may not adopt that legacy currency as its functional currency.

(2) *QBU with a legacy functional currency*—(i) *Required change*. A QBU with a legacy currency as its functional currency is required to change its functional currency to the euro beginning the first day of the first taxable year:

(A) That begins on or after the day that the euro is substituted for that legacy currency (in accordance with the Treaty on European Union); and

(B) In which the QBU begins to maintain its books and records (as described in §1.989(a)–1(d)) in the euro.

(ii) Notwithstanding paragraph (b)(2)(i) of this section, a QBU with a legacy currency as its functional currency is required to change its functional currency to the euro no later than the last taxable year beginning on or before the first day such legacy currency is no longer valid legal tender.

(iii) *Consent of Commissioner*. A change made pursuant to paragraph (b)(2)(i) of this section shall be deemed to be made with the consent of the Commissioner for purposes of §1.985–4. A QBU changing its functional currency to the euro pursuant to this paragraph (b)(2) must make adjustments as provided in paragraph (c) of this section.

(3) *Statement to file upon change.* With respect to a QBU that changes its functional currency to the euro under paragraph (b)(2) of this section, an affected taxpayer shall attach to its return for the taxable year of change a statement that includes the following: "TAXPAYER CERTIFIES THAT A QBU OF THE TAXPAYER HAS CHANGED ITS FUNCTIONAL CURRENCY TO THE EURO PURSUANT TO TREAS. REG. §1.985–8T." For purposes of this paragraph (b)(3), an affected taxpayer shall be in the case where the QBU is: a QBU of an individual U.S. resident (as a result of the activities of such individual), the individual; a QBU branch of a U.S. corporation, the corporation; a controlled foreign corporation (as described in section 957)(or QBU branch thereof), each United States shareholder (as described in section 951(b)); a partnership, each partner separately; a noncontrolled section 902 corporation (as described in section 904(d)(2)(E)) (or branch thereof), each domestic shareholder as described in §1.902–1(a)(1); or a trust or estate, the fiduciary of such trust or estate.

(c) *Adjustments required*—(1) *In general.* A QBU that changes its functional currency to the euro pursuant to paragraph (b) of this section must make the adjustments described in paragraphs (c)(2) through (5) of this section. Section 1.985–5 shall not apply.

(2) *Determining the euro basis of property and the euro amount of liabilities and other relevant items.* The euro basis in property and the euro amount of liabilities and other relevant items shall equal the product of the legacy functional currency adjusted basis or amount of liabilities multiplied by the applicable conversion rate.

(3) *Taking into account exchange gain or loss on legacy currency section 988 transactions*—(i) *In general*. Except as provided in paragraphs (c)(3)(iii) and (iv) of this section, a legacy currency denominated section 988 transaction (determined after applying section 988(d)) outstanding on the last day of the taxable year immediately prior to the year of change shall continue to be treated as a section 988 transaction after the change and the principles of section 988 shall apply.

(ii) *Example*. The application of this paragraph (c)(3) may be illustrated by the following examples:

Example 1. X, a calendar year QBU on the cash method of accounting, uses the deutschmark as its

functional currency. X is not described in section 1281(b). On July 1, 1998, X converts 10,000 deutschmarks (DM) into Dutch guilders(fl) at the spot rate of fl1 = DM1 and loans the 10,000 guilders to Y (an unrelated party) for one year at a rate of 10% with principal and interest to be paid on June 30, 1999. On January 1, 1999, X changes its functional currency to the euro pursuant to §1.985–8T. The euro/deutschmark conversion rate is set by the European Council at €1 = DM2. The euro/guilder conversion rate is set at €1 = fl2.25. Accordingly, under the terms of the note, on June 30, 1999, X will receive €4444.44 (fl10,000/2.25) of principal and €444.44 (fl1,000/2.25) of interest. Pursuant to this paragraph (c)(3), X will realize an exchange loss on the principal computed under the principles of §1.988–2(b)(5). For this purpose, the exchange rate used under §1.988–2(b)(5)(i) shall be the guilder/euro conversion rate. The amount under §1.988–2(b)(5)(ii) is determined by translating the fl10,000 at the guilder/deutschmark spot rate on July 1, 1998, and translating that deutschmark amount into euros at the deutschmark/euro conversion rate. Thus, X will compute an exchange loss for 1999 of €555.56 determined as follows: [€4444.44 (fl10,000/2.25) – €5000 ((fl10,000/1)/2) = –€555.56]. Pursuant to this paragraph (c)(3), the character and source of the loss are determined pursuant to section 988 and regulations thereunder. Because X uses the cash method of accounting for the interest on this debt instrument, X does not realize exchange gain or loss on the receipt of that interest.

Example 2. (i) X, a calendar year QBU on the accrual method of accounting, uses the deutschmark as its functional currency. On February 1, 1998, X converts 12,000 deutschmarks into Dutch guilders at the spot rate of fl1 = DM1 and loans the 12,000 guilders to Y (an unrelated party) for one year at a rate of 10% with principal and interest to be paid on January 31, 1999. In addition, assume the average rate (deutschmark/guilder) for the period from February 1, 1998, through December 31, 1998 is fl1.07 = DMl. Pursuant to §1.988– 2(b)(2)(ii)(C), X will accrue eleven months of interest on the note and recognize interest income of DM1028.04 (fl1100/1.07) in the 1998 taxable year.

(ii) On January 1, 1999, the euro will replace the deutschmark as the national currency of Germany pursuant to the Treaty on European Union signed February 7, 1992. Assume that on January 1, 1999, X changes its functional currency to the euro pursuant to §1.985–8T. The euro/deutschmark conversion rate is set by the European Council at €1 = DM2. The euro/guilder conversion rate is set at €1 = fl2.25. In 1999, X will accrue one month of interest equal to €44.44 (fl100/2.25). On January 31, 1999, pursuant to the note, X will receive interest denominated in euros of €533.33 (fl1200/2.25). Pursuant to this paragraph (c)(3), X will realize an exchange loss in the 1999 taxable year with respect to accrued interest computed under the principles of §1.988–2(b)(3). For this purpose, the exchange rate used under §1.988–2(b)(3)(i) is the guilder/euro conversion rate and the exchange rate used under §1.988–2(b)(3)(ii) is the deutschmark/euro conversion rate. Thus, with respect to the interest accrued in 1998, X will realize exchange loss of €25.13 under §1.988–2(b)(3) as follows: [€488.89 (fl1100/2.25) – €514.02 (DM1028.04/2) = –€25.13]. With respect to the one month of interest accrued in 1999, X will realize no exchange gain or loss since the exchange rate when the interest accrued and the spot rate on the payment date are the same.

(iii) X will realize exchange loss of €666.67 on repayment of the loan principal computed in the same manner as in *Example 1* [€5333.33 (fl12,000/2.25) – €6000 (fl12,000/1)/2)]. The losses with respect to accrued interest and principal are characterized and sourced under the rules of section 988.

(iii) *Special rule for legacy nonfunctional currency.* The QBU shall realize or otherwise take into account for all purposes of the Internal Revenue Code the amount of any unrealized exchange gain or loss attributable to nonfunctional currency (as described in section 988(c)(1)(C)(ii)) that is denominated in a legacy currency as if the currency were disposed of on the last day of the taxable year immediately prior to the year of change. The character and source of the gain or loss are determined under section 988.

(iv) *Legacy currency denominated accounts receivable and payable*—(A) *In general.* A QBU may elect to realize or otherwise take into account for all purposes of the Internal Revenue Code the amount of any unrealized exchange gain or loss attributable to a legacy currency denominated item described in section 988(c)(1)(B)(ii) as if the item were terminated on the last day of the taxable year ending prior to the year of change.

(B) *Time and manner of election.* With respect to a QBU that makes an election described in paragraph (c)(3)(iv)(A) of this section, an affected taxpayer (as described in paragraph (b)(3) of this section) shall attach a statement to its tax return for the taxable year of change which includes the following: "TAXPAYER CERTIFIES THAT A QBU OF THE TAXPAYER HAS ELECTED TO REALIZE CURRENCY GAIN OR LOSS ON LEGACY CURRENCY DENOMINATED ACCOUNTS RECEIVABLE AND PAYABLE UPON CHANGE OF FUNCTIONAL CURRENCY TO THE EURO." A QBU making the election must do so for all legacy currency denominated items described in section 988(c)(1)(B)(ii).

(4) *Adjustments when a branch changes its functional currency to the euro—(i) Branch changing from a legacy currency to the euro in a taxable year during which taxpayer's functional currency is other than the euro.* If a branch changes its functional currency from a legacy currency to the euro for a taxable year during which the taxpayer's functional currency is other than the euro, the branch's euro equity pool shall equal the product of the legacy currency amount of the equity pool multiplied by the applicable conversion rate. No adjustment to the basis pool is required.

(ii) *Branch changing from a legacy currency to the euro in a taxable year during which taxpayer's functional currency is the euro.* If a branch changes its functional currency from a legacy currency to the euro for a taxable year during which the taxpayer's functional currency is the euro, the taxpayer shall realize gain or loss attributable to the branch's equity pool under the principles of section 987, computed as if the branch terminated on the last day prior to the year of change. Adjustments under this paragraph (c)(4)(ii) shall be taken into account by the taxpayer ratably over four taxable years beginning with the taxable year of change.

(5) *Adjustments to a branch's accounts when a taxpayer changes to the euro—(i) Taxpayer changing from a legacy currency to the euro in a taxable year during which a branch's functional currency is other than the euro.* If a taxpayer changes its functional currency to the euro for a taxable year during which the functional currency of a branch of the taxpayer is other than the euro, the basis pool shall equal the product of the legacy currency amount of the basis pool multiplied by the applicable conversion rate. No adjustment to the equity pool is required.

(ii) *Taxpayer changing from a legacy currency to the euro in a taxable year during which a branch's functional currency is the euro.* If a taxpayer changes its functional currency from a legacy currency to the euro for a taxable year during which the functional currency of a branch of the taxpayer is the euro, the taxpayer shall take into account gain or loss as determined under paragraph (c)(4)(ii) of this section.

(6) *Additional adjustments that are necessary when a corporation changes its functional currency to the euro.* The amount of a corporation's euro currency earnings and profits and the amount of its

euro paid-in capital shall equal the product of the legacy currency amounts of these items multiplied by the applicable conversion rate. The foreign income taxes and accumulated profits or deficits in accumulated profits of a foreign corporation that were maintained in foreign currency for purposes of section 902 and that are attributable to taxable years of the foreign corporation beginning before January 1, 1987, also shall be translated into the euro at the conversion rate.

(d) *Effective date.* This section applies to tax years ending after July 29, 1998.

Par. 5. Section 1.1001–5T is added to read as follows:

§1.1001–5T European Monetary Union (conversion to the euro)(temporary).

(a) *Conversion of currencies.* For purposes of §1.1001–1(a), the conversion to the euro of legacy currencies (as defined in §1.985–8T(a)(1)) is not the exchange of property for other property differing materially in kind or extent.

(b) *Effect of currency conversion on other rights and obligations.* For purposes of §1.1001–1(a), if, solely as the result of the conversion of legacy currencies to the euro, rights or obligations denominated in a legacy currency become rights or obligations denominated in the euro, that event is not the exchange of property for other property differing materially in kind or extent. Thus, for example, when a debt instrument that requires payments of amounts denominated in a legacy currency becomes a debt instrument requiring payments of euros, that alteration is not a modification within the meaning of §1.1001–3(c).

(c) *Effective date.* This section applies to tax years ending after July 29, 1998.

Michael P. Dolan,
Deputy Commissioner of Internal Revenue.

Approved July 17, 1998.

Donald C. Lubick,
Assistant Secretary of the Treasury.

(Filed by the Office of the Federal Register on July 28, 1998, 8:45 a.m., and published in the issue of the Federal Register for July 29, 1998, 63 F.R. 40366)

Effective Date of Nondiscrimination Regulations for Church Plans

Notice 98–39

I. PURPOSE

This notice extends, until the first day of the first plan year beginning on or after January 1, 2001, the effective date of certain nondiscrimination regulations for nonelecting church plans. Specifically, this notice extends the effective date of the regulations under §§ 401(a)(4), 401(a)(5), 401(l), and 414(s) of the Internal Revenue Code. This notice also extends the TRA '86 remedial amendment period for such provisions, and other related administrative relief for nonelecting church plans, until the last day of the first plan year beginning on or after January 1, 2001.

II. BACKGROUND

A. Church Plans

Section 414(e)(1) of the Code provides in general that the term "church plan" means a plan established and maintained for its employees (and their beneficiaries) by a church or by a convention or association of churches which is exempt from tax under § 501. Pursuant to § 410(d), a church or convention or association of churches which maintains any church plan may make an election under § 410(d) to have certain Code provisions relating to participation, vesting, and funding, etc., apply to such church plan (an "electing church plan") as if such provisions did not contain an exclusion for church plans. A church plan for which such an election has not been made (a "nonelecting church plan") is not subject to these provisions.

Section 1462(b) of the Small Business Job Protection Act of 1996 ("SBJPA") provides that the Secretary of the Treasury may design nondiscrimination and coverage safe harbors for church plans.

B. Announcement 95–48 and Notice 96–64

The nondiscrimination requirements under the Code were substantially changed by the Tax Reform Act of 1986 ("TRA '86"). Announcement 95–48, 1995–23 I.R.B. 13, and Notice 96–64, 1996–2 C.B. 229, provided that the regulations under §§ 401(a)(4), 401(a)(5), 401(l) and 414(s) apply for nonelecting church plans in plan years beginning on or after January 1, 1999. For plan years beginning before that effective date, nonelecting church plans must be operated in accordance with a reasonable, good faith interpretation of these statutory provisions.

The remedial amendment period described in § 401(b) is generally the period during which a plan may be amended retroactively to comply with certain plan qualification requirements. Announcement 95–48 and Notice 96–64 extended the remedial amendment period under § 401(b) for nonelecting church plans for certain amendments ("TRA '86 remedial amendment period") to the last day of the first plan year beginning on or after January 1, 1999. The amendments to which the TRA '86 remedial amendment period applies are those required to comply with TRA '86 and subsequent legislation through the Omnibus Budget Reconciliation Act of 1993. Announcement 95–48 and Notice 96–64 also provided that, for a nonelecting church plan during the TRA '86 remedial amendment period, the additional administrative relief provided under Notice 92–36, 1992–2 C.B. 364, would continue to be available.

C. Revenue Procedure 97–41 and Revenue Procedure 98–14

The Uruguay Round Agreements Act of 1994 ("GATT"), SBJPA (including § 414(u) of the Code and the Uniformed Services Employment and Reemployment Rights Act of 1994 ("USERRA")), and the Taxpayer Relief Act of 1997 ("TRA '97") changed certain provisions of the Code affecting qualified plans. Rev. Proc. 97–41, 1997–33 I.R.B. 51, and Rev. Proc. 98–14, 1998–4 I.R.B. 22, set forth the remedial amendment period for plans for amendments relating to these statutes. The remedial amendment period for these statutes generally permits plan amendments to be made retroactively effective if they are adopted on or before the last day of the first plan year beginning on or after January 1, 1999, and they relate to GATT, SBJPA (including § 414(u) and USERRA), and TRA '97 changes that are effective before the first day of that plan year. (A later remedial amendment period applies for governmental plans.)

III. EXTENSION OF EFFECTIVE DATE OF NONDISCRIMINATION REGULATIONS FOR NONELECTING CHURCH PLANS

Under the extension provided by this notice, the regulations under §§ 401(a)(4), 401(a)(5), 401(l), and 414(s) apply to nonelecting church plans only for plan years beginning on or after January 1, 2001. For plan years beginning before this extended effective date, nonelecting church plans must be operated in accordance with a reasonable, good faith interpretation of these sections.

IV. EXTENSION OF REMEDIAL AMENDMENT PERIOD AND ADMINISTRATIVE RELIEF FOR NONELECTING CHURCH PLANS FOR AMENDMENTS RELATING TO NONDISCRIMINATION REQUIREMENTS

Under this notice, the TRA '86 remedial amendment period for nonelecting church plans is extended to the last day of the first plan year beginning on or after January 1, 2001, but only for amendments required to comply with the nondiscrimination requirements of §§ 401(a)(4), 401(a)(5), 401(l), and 414(s). The additional administrative relief provided under Notice 92–36 also applies to these plans through this extended remedial amendment period with respect to these nondiscrimination requirements. This notice does not extend the remedial amendment periods for any provisions applicable to nonelecting church plans other than these nondiscrimination requirements.

V. SCOPE AND COMMENTS

The extensions described in this notice are provided in anticipation of the development of nondiscrimination and coverage safe harbors for nonelecting church plans to comply with §§ 401(a)(4), 401(a)(5), 401(l), and 414(s), as described in § 1462(b) of SBJPA. The Treasury and the Service recognize that certain issues may arise for nonelecting church plans that are attributable to unique features of churches as sponsoring employers. Such

issues may arise, for instance, in the interaction of §§ 401(a)(4) and 410(c). The Treasury and the Service invite specific comments and suggestions regarding the design of safe harbors for nonelecting church plans.

The extensions provided by this notice do not apply to electing church plans. The Treasury and the Service do not presently anticipate the development of safe harbors for electing church plans under § 1462(b) of SBJPA, but comments are welcome regarding whether these plans need safe harbors. Furthermore, this notice does not apply to annuity contracts or other arrangements maintained by churches pursuant to § 403(b), which continue to be eligible for the relief described in § VI of Notice 96–64.

Comments or suggestions in response to this notice should be addressed to CC:DOM:CORP:R (Notice 98–39), Room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Alternatively, taxpayers may hand-deliver comments between the hours of 8 a.m. and 5 p.m. to: CC:DOM:CORP:R (Notice 98–39), Courier's desk, Internal Revenue Service, 1111 Constitution Ave., NW, Washington, DC, or may submit comments electronically via the IRS internet site at http://www.irs.ustreas.gov./prod/tax_regs/comments.html

VI. EFFECT ON OTHER DOCUMENTS

Notices 96–64 and 92–36 are modified.

DRAFTING INFORMATION

The principal author of this notice is Diane S. Bloom of the Employee Plans Division. For further information regarding this notice, please contact the Employee Plans Division's taxpayer assistance telephone service at (202) 622-6074 or (202) 622-6075, between the hours of 1:30 p.m. and 3:30 p.m. Eastern Time, Monday through Thursday. Ms. Bloom may be reached at (202) 622-6214. These telephone numbers are not toll-free.

1998 Section 43 Inflation Adjustment

Notice 98–41

Section 43(b)(3)(B) of the Internal Revenue Code requires the Secretary to publish an inflation adjustment factor. The enhanced oil recovery credit under § 43 for any taxable year is reduced if the "reference price," determined under § 29(d)(2)(C), for the calendar year preceding the calendar year in which the taxable year begins is greater than $28 multiplied by the inflation adjustment factor for that year.

The term "inflation adjustment factor" means, with respect to any calendar year, a fraction the numerator of which is the GNP implicit price deflator for the preceding calendar year and the denominator of which is the GNP implicit price deflator for 1990.

Because the reference price for the 1997 calendar year ($17.24) does not exceed $28 multiplied by the inflation adjustment factor for the 1998 calendar year, the enhanced oil recovery credit for qualified costs paid or incurred in 1998 is determined without regard to the phase-out for crude oil price increases.

Table 1 contains the GNP implicit price deflator used for the 1998 calendar year, as well the previously published GNP implicit price deflators used for the 1991 through 1997 calendar years.

Notice 98–41 TABLE 1

GNP IMPLICIT PRICE DEFLATORS

Calendar Year	*GNP Implicit Price Deflator*
1990	112.9 (used for 1991)
1991	117.0 (used for 1992)
1992	120.9 (used for 1993)
1993	124.1 (used for 1994)
1994	126.0 (used for 1995)
1995	107.5 (used for 1996)*
1996	109.7 (used for 1997)
1997	112.35 (used for 1998)**

* Beginning in 1995, the GNP implict price deflator was rebased relative to 1992. The 1990 GNP implicit price deflator used to compute the 1996 § 43 inflation adjustment factor is 93.6.

** Beginning in 1997, two digits follow the decimal point in the GNP implicit price deflator. The 1990 GNP price deflator used to compute the 1998 § 43 inflation adjustment factor is 93.63.

Table 2 contains the inflation adjustment factor and the phase-out amount for taxable years beginning in the 1998 calendar year as well as the previously published inflation adjustment factors and phase-out amounts for the 1991 through 1997 calendar years.

Notice 98–41 TABLE 2

INFLATION ADJUSTMENT FACTORS AND PHASE-OUT AMOUNTS

Calendar Year	*Inflation Adjustment Factor*	*Phase-out Amount*
1991	1.0000	0
1992	1.0363	0
1993	1.0708	0
1994	1.0992	0
1995	1.1160	0
1996	1.1485	0
1997	1.1720	0
1998	1.1999	0

DRAFTING INFORMATION

The principal author of this notice is Brenda M. Stewart of the Office of Assistant Chief Counsel (Passthroughs and Special Industries). For further information regarding this notice contact Ms. Stewart on (202) 622-3120 (not a toll-free call).

1998 Marginal Production Rates

Notice 98–42

Section 613A(c)(6)(C) of the Internal Revenue Code defines the term "applicable percentage" for purposes of determining percentage depletion for oil and gas produced from marginal properties. The applicable percentage is the percentage (not greater than 25 percent) equal to the sum of 15 percent, plus one percentage point for each whole dollar by which $20 exceeds the reference price (determined under § 29(d)(2)(C)) for crude oil for the calendar year preceding the calendar year in which the taxable year begins. The reference price determined under § 29(d)(2)(C) for the 1997 calendar year is $17.24.

Table 1 contains the applicable percentages for marginal production for taxable years beginning in calendar years 1991 through 1998.

Notice 98–42 TABLE 1

APPLICABLE PERCENTAGE FOR MARGINAL PRODUCTION

Calendar Year	*Applicable Percentage*
1991	15 percent
1992	18 percent
1993	19 percent
1994	20 percent
1995	21 percent
1996	20 percent
1997	16 percent
1998	17 percent

DRAFTING INFORMATION

The principal author of this notice is Brenda M. Stewart of the Office of Assistant Chief Counsel (Passthroughs and Special Industries). For further information regarding this notice contact Ms. Stewart on (202) 622-3120 (not a toll-free call).

New Procedures for Processing Employment Tax Cases Involving Worker Classification and Section 530 of the Revenue Act of 1978 Under Section 7436 of the Code

Notice 98–43

PURPOSE

The Taxpayer Relief Act of 1997 (TRA '97), Pub. L. No. 105–34, 111 Stat. 788, created new § 7436 of the Internal Revenue Code (the "Code"), which provides Tax Court review rights concerning certain employment tax determinations. This notice provides information about how taxpayers may petition for Tax Court review of employment tax determinations under § 7436. Attached to this notice as Exhibit 1 is a "Notice of Determination Concerning Worker Classification Under Section 7436" (a "Notice of Determination"). With respect to taxpayers whose workers are the subject of an employment tax determination, the attached Notice of Determination addressed to a taxpayer will constitute the "determination" that is a prerequisite to invoking the Tax Court's jurisdiction under § 7436.

BACKGROUND

Section 7436(a) of the Code provides the Tax Court with jurisdiction to review determinations by the Service that workers are employees for purposes of subtitle C of the Code, or that the organization for which services are performed is not entitled to relief from employment taxes under § 530 of the Revenue Act of 1978. Section 7436(a) requires that the determination involve an actual controversy and that it be made as part of an examination. Section 7436 became effective on August 5, 1997.

Proceedings under § 7436 may be conducted pursuant to the Tax Court's simplified procedures for small tax cases set forth in § 7463 of the Code and Rule 295 of the Tax Court's Rules of Practice and Procedure. Currently, taxpayers may elect, with the concurrence of the Tax Court, to use these simplified procedures if the amount of employment taxes placed in dispute is $50,000 or less for each calendar quarter involved.

ISSUES TO WHICH § 7436 APPLIES

Section 7436(a) provides the Tax Court with jurisdiction to review the Service's determinations that one or more individuals performing services for the taxpayer are employees of the taxpayer for purposes of subtitle C of the Code, or that the taxpayer is not entitled to relief under § 530 with respect to such individuals. Thus, § 7436(a) does not provide the Tax Court with jurisdiction to determine any amount of employment tax or penalties. Nor does § 7436(a) provide the Tax Court with jurisdiction to review other employment tax issues. Moreover, the procedures set forth in § 7436 do not apply to employment-related issues not arising under subtitle C, such as the classification of individuals with respect to pension plan coverage or the proper treatment of individual income tax deductions. Additionally, insofar as § 7436(a) only confers jurisdiction upon the Tax Court to review determinations that are made by the Service as part of an examination, other Service determinations that are not made as part of an examination, including those that are made in the context of private letter rulings or Forms SS–8, Determination of Employee Work Status for Purposes of Federal Employment Taxes and Income Tax Withholding, are not subject to review by the Tax Court under § 7436(a).

The Service will issue a Notice of Determination only after the Service has determined *both* that one or more individuals performing services for the taxpayer are employees for purposes of subtitle C and that the taxpayer is not entitled to relief under § 530. This will provide taxpayers with the opportunity to resolve both issues in one judicial determination.

TAXPAYERS ELIGIBLE TO SEEK JUDICIAL REVIEW

Section 7436(b) provides that a pleading seeking Tax Court review of the Service's determination may be filed only by "the person for whom the services are performed." Thus, workers may not seek review of the Service's determinations under § 7436. In addition, because there must be an actual controversy, review may not be sought by a third party that has not been determined by the Service to be the employer.

NOTICE OF DETERMINATION CONCERNING WORKER CLASSIFICATION UNDER § 7436

The Service will inform taxpayers of a determination described in § 7436(a) by sending the taxpayer a Notice of Determination by certified or registered mail. A copy of the current Notice of Determination, which may be revised from time to time, is attached hereto as Exhibit 1.

The Notice of Determination will advise taxpayers of the opportunity to seek Tax Court review and provides information on how to do so. Attached to the Notice of Determination will be a schedule showing each kind of tax with its proposed employment tax adjustment by calendar quarter. The schedule will be provided to enable the taxpayer to determine eligibility to elect use of the small tax case procedures under § 7436(c). Currently, the small tax case procedures may be available under § 7436(c) if the amount of employment taxes placed in dispute is $50,000 or less for each calendar quarter involved.

In most cases, a taxpayer who receives a Notice of Determination will have previously received a "thirty-day letter," which the Service sends to taxpayers in unagreed examination cases. The thirty-day letter lists the proposed employment tax adjustments to be made and describes

the taxpayer's right to either agree to the proposed employment tax adjustments or, alternatively, to protest the proposed adjustments to the Appeals Division of the Service within thirty days of the date of the letter. If the taxpayer does not respond to the thirty-day letter by agreeing to the proposed adjustments or, alternatively, by filing a protest with the Appeals Division, the taxpayer will receive, by certified or registered mail, a Notice of Determination. Under normal procedures, if the taxpayer does not respond to the thirty-day letter, the taxpayer should generally expect to receive a Notice of Determination within sixty days after expiration of the thirty-day period beginning with the date on the thirty-day letter. If no Notice of Determination is received during this period, the taxpayer may wish to contact the local Internal Revenue Service office to check on the status of the case.

If the taxpayer responds to the thirty-day letter by filing a protest with the Appeals Division (or if the case proceeds to Appeals by way of the employment tax early referral procedures, *see* Announcement 97–52, 1997–21 I.R.B. 22; Announcement 96–13, 1996–12 I.R.B. 33; and Rev. Proc. 96–9, 1996–1 C.B. 575), and the worker classification and § 530 issues are not settled on an agreed basis in the Appeals Division, the taxpayer will thereafter receive a Notice of Determination. Taxpayers are encouraged to resolve cases in nondocketed status by requesting use of the early referral procedures in appropriate cases.

PREREQUISITE FOR SEEKING TAX COURT REVIEW

Because a Notice of Determination constitutes the Service's determination described in § 7436(a), the Notice of Determination is a jurisdictional prerequisite for seeking Tax Court review of the Service's determinations regarding worker classification and § 530 issues. Tax Court proceedings seeking review of these determinations may not be commenced prior to the time the Service issues a Notice of Determination to the taxpayer.

TIME BY WHICH PETITION MUST BE FILED

Section 7436(b)(2) provides that a taxpayer's petition for review must be filed with the Tax Court before the 91st day after the Service mails its Notice of Determination to the taxpayer by certified or registered mail. If the taxpayer discusses the case with the Service during the period before the 91st day following the mailing of the Notice of Determination, the discussion will not extend the period in which the taxpayer may file a petition with the Tax Court.

A taxpayer who does not file a Tax Court petition within the allotted time retains the right to seek judicial review of the Service's employment tax determinations by paying the tax and filing a claim for refund, as required by § 7422(a) of the Code. If the claim for refund is denied, the taxpayer may file a refund suit in district court or the Court of Federal Claims.

APPEALS JURISDICTION

Cases docketed in the United States Tax Court will be referred by District Counsel to the Appeals Division for consideration of settlement unless the Notice of Determination was issued by Appeals. Cases in which Appeals issued such a Notice of Determination may be referred to Appeals unless District Counsel determines that there is little likelihood that a settlement of all or a part of the case can be achieved in a reasonable period of time. Appeals will have sole settlement authority over docketed cases referred to Appeals until the case is returned to District Counsel. *See* Rev. Proc. 87–24, 1987–1 C.B. 720.

SUSPENSION OF STATUTE OF LIMITATIONS

Section 7436(d)(1) provides that the suspension of the limitations period for assessment in § 6503(a) of the Code applies in the same manner as if a notice of deficiency had been issued. Thus, pursuant to § 6503(a), the mailing of the Notice of Determination by certified or registered mail will suspend the statute of limitations for assessment of taxes attributable to the worker classification and § 530 issues. Generally, the statute of limitations for assessment of taxes attributable to the worker classification and § 530 issues is suspended for the 90-day period during which the taxpayer can begin a suit in Tax Court, plus an additional 60 days thereafter. Moreover, if the taxpayer does file a timely petition in the Tax Court, the statute of limitations for assessment of taxes attributable to the worker classification and § 530 issues will be suspended under section 6503(a) during the Tax Court proceedings, and for 60 days after the Tax Court decision becomes final.

RESTRICTIONS ON ASSESSMENT

Section 7436(d)(1) provides that the restrictions on assessment in § 6213 of the Code apply in the same manner as if a notice of deficiency had been issued. Thus, pursuant to § 6213(a), the Service is precluded from assessing the taxes attributable to the worker classification and § 530 issues prior to expiration of the 90-day period during which the taxpayer may file a timely Tax Court petition. If the taxpayer does file a timely Tax Court petition, § 6213(a) generally precludes the Service from assessing taxes attributable to the worker classification and § 530 issues until the decision of the Tax Court has become final. If the taxpayer does not file a timely Tax Court petition before the 91st day after the Notice of Determination was mailed, the employment taxes attributable to the workers described in the Notice of Determination may thereafter be assessed.

AGREED SETTLEMENTS

If the taxpayer wishes to settle the worker classification and § 530 issues on an agreed basis before issuance of a Notice of Determination, the taxpayer must formally waive the restrictions on assessment contained in §§ 7436(d)(1) and 6213. This will generally be accomplished by execution of an agreed settlement that contains the following language:

> I understand that, by signing this agreement, I am waiving the restrictions on assessment provided in sections 7436(d) and 6213(a) of the Internal Revenue Code of 1986.

The Service will not assess employment taxes attributable to worker classification or § 530 issues unless either the Service has issued a Notice of Determination to the taxpayer and the 90-day period for filing a Tax Court petition has expired or, alternatively, the taxpayer has waived the restrictions on assessment. If the Service erroneously makes an assessment of taxes attributable to worker classification and § 530 issues without first either issu-

ing a Notice of Determination or obtaining a waiver of restrictions on assessment from the taxpayer, the taxpayer is entitled to an automatic abatement of the assessment. However, once any such procedural defects are corrected, the Service may reassess the employment taxes to the same extent as if the abated assessment had not occurred.

EFFECTIVE DATE

Section 1454 of TRA '97 is effective as of August 5, 1997. Thus, assessments that were made prior to the August 5, 1997, effective date of the Act are not subject to the new legislation or the procedures discussed above. All employment tax examinations involving worker classification and/or § 530 issues that were pending as of August 5, 1997, are subject to the new legislation.

DRAFTING INFORMATION

The principal author of this notice is Lynne A. Camillo of the Office of the Associate Chief Counsel (Employee Benefits and Exempt Organizations). The Service invites comments with respect to the issues addressed in this notice, the form of the attached Notice of Determination, as well as with respect to any procedural issues which should be addressed in forthcoming guidance. Written comments should be submitted to Lynne A. Camillo of the Employee Benefits and Exempt Organizations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW, Room 5329, Washington, DC 20224. For further information regarding this notice contact Lynne A. Camillo at (202) 622-6040 (not a toll-free call).

Internal Revenue Service **Department of the Treasury**

Date: **Taxpayer Identification Number:**

Person to Contact:

Telephone Number:

NOTICE OF DETERMINATION CONCERNING WORKER CLASSIFICATION UNDER SECTION 7436

As a result of an employment tax audit, we are sending you this NOTICE OF DETERMINATION CONCERNING WORKER CLASSIFICATION UNDER SECTION 7436. We have determined that the individual(s) listed or described on the attached schedule are to be classified as employees for purposes of federal employment taxes under subtitle C of the Internal Revenue Code and that you are not entitled to relief from this classification pursuant to section 530 of the Revenue Act of 1978 with respect to such individual(s). This determination could result in employment taxes being assessed against you.

If you want to contest this determination in court, you may file a petition with the United States Tax Court for a redetermination of the above-referenced issues. If you wish to contest this determination in the United States Tax Court, your petition must be filed before the 91st day after the date this letter was mailed by certified or registered mail. You can get a copy of the rules for filing a petition by writing to the address below.

United States Tax Court
400 Second Street, NW
Washington, DC 20217

Send the completed petition, a copy of this letter, and copies of all statements and/or schedules you received with this letter to the Tax Court at the same address above. The Tax Court cannot consider your case if the petition is filed late. The petition is considered timely filed if the postmark date (either by the U.S. Postal Service or a designated private delivery service) falls within the period for filing a petition described above and the envelope containing the petition is properly addressed with the correct postage.

The time you have to file a petition with the Tax Court is set by law and cannot be extended. Thus, contacting the Internal Revenue Service (IRS) for more information, or receiving other correspondence from the IRS, will not change the period for filing a petition with the Tax Court.

EXHIBIT 1

If you are in bankruptcy, under Bankruptcy Code section 362(a)(8), the filing of a petition with the Tax Court is automatically stayed because of your bankruptcy case. When the automatic stay is in effect, you must ask the Bankruptcy Court (under Bankruptcy Code section 362(d)(1)) to lift the stay so you can file a petition with the Tax Court. Your petition must be filed before the 91st day after the date of this letter, plus any additional period provided by section 6213(f)(1) of the Internal Revenue Code (generally, the period that the automatic stay is in effect, plus 60 days) to file a petition with the Tax Court.

If this letter is addressed to both husband and wife, and both want to petition the Tax Court, both must sign and file the petition or each must file a separate, signed petition. If more than one tax period is shown on the attached schedule, you only need to file one petition showing all of the periods you are contesting.

The Tax Court has a simplified procedure for small tax cases that will apply when the amount of employment taxes in dispute is $50,000 or less for each calendar quarter involved. Attached is a preliminary calculation of the amounts that we think you might owe as a result of this determination. We have included this calculation for your use in determining whether you are entitled to request that your case be conducted under the Tax Court's simplified procedures for small tax cases. You can get more information about this procedure by writing to the Tax Court at the address listed above. You should write promptly if you intend to file a petition with the Court.

If you decide not to file a petition with the Tax Court, we may assess the amount of employment taxes owed. If you do file a timely petition, we will not assess those taxes until the decision of the Tax Court is final.

If you do not file a Tax Court petition within the allotted time, you still may seek judicial review of the IRS's employment tax determinations by paying the tax and filing a claim for refund with the IRS. If the claim for refund is denied, you may file a refund suit in district court or the Court of Federal Claims.

If you have any questions about this letter, you may write to the person whose name and IRS address are shown on the front of this letter. If you write, please include your telephone number, the best time for us to call you if we need more information, and

a copy of this letter to help us identify your account. Keep the original letter for your records.

If you prefer, you may call the IRS contact person at the telephone number on the front page of this letter. If this number is outside your local calling area, there will be a long distance charge to you. You may call the IRS telephone number listed in your local directory. An IRS employee there may be able to help you, but the contact person at our address shown on this letter is most familiar with your case.

Thank you for your cooperation.

Sincerely yours,

Commissioner
by

Enclosure:
Explanation of tax changes

Part IV. Items of General Interest

Notice of Proposed Rulemaking and Notice of Public Hearing

Conversion to the Euro

REG–110332–98

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations and notice of public hearing.

SUMMARY: In T.D. 8776, page 6, the IRS is issuing temporary regulations relating to the change to the euro. The text of those temporary regulations also serves as the text of these proposed regulations. This document also provides a notice of public hearing on these proposed regulations.

DATES: Written comments must be received by October 1, 1998. Requests to speak and outlines of oral comments to be discussed at the public hearing scheduled for October 20, at 10 a.m., must be received by September 29, 1998.

ADDRESSES: Send submissions to: CC:DOM:CORP:R (REG–110332–98), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered between the hours of 8 a.m. and 5 p.m. to: CC:DOM:CORP:R (REG–110332–98) Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC. Alternatively, taxpayers may submit comments electronically via the Internet by selecting the "Tax Regs" option of the IRS Home Page, or by submitting comments directly to the IRS Internet site at: http://www.irs.ustreas.gov/prod/tax_regs/comments.html. The public hearing will be held in the IRS Auditorium, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue NW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, Howard Wiener, (202)622-3870 or Thomas Preston, (202) 622-3930; concerning submissions and the hearing, LaNita VanDyke, 202-622-7190 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

Temporary regulations in T.D. 8776 amend the Income Tax Regulations (26 CFR part 1) relating to sections 985 and 1001. The temporary regulations contain rules relating to conversion to the euro.

The text of those temporary regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the temporary regulations.

Request for Additional Comments

The Treasury and IRS request additional comments on the following issues.

(1) Whether the final regulations should contain guidance (and the substance of any such guidance) concerning the application of sections 1092 and 1259. Comments should separately address the rules for periods before May 3, 1998, between May 3, 1998 and December 31, 1998, and after December 31, 1998.

(2) Whether guidance is necessary with respect to section 905, relating to the redetermination of taxes in post-conversion years.

(3) Whether a QBU whose functional currency was a currency other than a legacy currency, but whose functional currency should properly be the euro after the conversion, should be deemed to have automatically changed its functional currency to the euro.

(4) Whether the regulations adequately address QBUs with functional currencies of countries that adopt the euro in the future. The Treasury and IRS also request comments regarding guidance clarifying the treatment of section 988 transactions that are held by euro functional currency QBUs and that are denominated in a currency that is replaced by the euro in the future.

(5) Whether guidance is necessary to addresses integrated section 988 hedging transactions. It is intended that these regulations be applied to section 988 integrated hedging transactions under section 988(d) on an integrated basis. If a QBU subsequently legs out of a position of a section 988 integrated hedging transaction after the euro conversion, a leg that formerly was a legacy currency position prior to the conversion will be a euro denominated position after the conversion, and the section 988 rules should then be applied to the euro denominated position.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and, therefore, a Regulatory Flexibility Analyses is not required. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments (preferably a signed original and eight (8) copies) that are submitted timely to the IRS. All comments will be available for public inspection and copying.

A public hearing has been scheduled for Tuesday, October 20, 1998, at 10 a.m., in Room 2615, Internal Revenue Building, 1111 Constitution Avenue NW, Washington, DC. Because of access restrictions, visitors will not be admitted beyond the building lobby more than 15 minutes before the hearing starts.

The rules of 26 CFR 601.601(a)(3) apply to the hearing.

Persons that wish to present oral comments at the hearing must submit written comments by October 1, 1998, and submit an outline of the topics to be discussed and the time to be devoted to each topic (signed original and eight (8) copies) by September 29, 1998.

A period of 10 minutes will be allotted to each person for making comments.

An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

Drafting Information

The principal authors of these regulations are Howard A. Wiener, of the Office of Associate Chief Counsel (International) and Thomas Preston of the Office of Associate Chief Counsel (Domestic). However, other personnel from the IRS and Treasury Department participated in their development.

* * * * *

Proposed Amendment to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 2. Section 1.985–8 is added to read as follows:

§1.985–8 Special rules applicable to the European Monetary Union (conversion to the euro).

[The text of this proposed section is the same as the text of T.D. 8776.]

Par. 3. Section 1.1001–5 is added to read as follows:

§1.1001–5 European Monetary Union (conversion to the euro).

[The text of this proposed section is the same as the text of T.D. 8776.]

Michael P. Dolan,
Deputy Commissioner of Internal Revenue.

(Filed by the Office of the Federal Register on July 28, 1998, 8:45 a.m., and published in the issue of the Federal Register for July 29, 1998, 63 F.R. 40383)

Definition of Terms

Revenue rulings and revenue procedures (hereinafter referred to as "rulings") that have an effect on previous rulings use the following defined terms to describe the effect:

Amplified describes a situation where no change is being made in a prior published position, but the prior position is being extended to apply to a variation of the fact situation set forth therein. Thus, if an earlier ruling held that a principle applied to A, and the new ruling holds that the same principle also applies to B, the earlier ruling is amplified. (Compare with *modified*, below).

Clarified is used in those instances where the language in a prior ruling is being made clear because the language has caused, or may cause, some confusion. It is not used where a position in a prior ruling is being changed.

Distinguished describes a situation where a ruling mentions a previously published ruling and points out an essential difference between them.

Modified is used where the substance of a previously published position is being changed. Thus, if a prior ruling held that a principle applied to A but not to B, and the new ruling holds that it applies to both A and B, the prior ruling is modified because it corrects a published position. (Compare with *amplified* and *clarified*, above).

Obsoleted describes a previously published ruling that is not considered determinative with respect to future transactions. This term is most commonly used in a ruling that lists previously published rulings that are obsoleted because of changes in law or regulations. A ruling may also be obsoleted because the substance has been included in regulations subsequently adopted.

Revoked describes situations where the position in the previously published ruling is not correct and the correct position is being stated in the new ruling.

Superseded describes a situation where the new ruling does nothing more than restate the substance and situation of a previously published ruling (or rulings). Thus, the term is used to republish under the 1986 Code and regulations the same position published under the 1939 Code and regulations. The term is also used when it is desired to republish in a single ruling a series of situations, names, etc., that were previously published over a period of time in separate rulings. If the new ruling does more than restate the substance of a prior ruling, a combination of terms is used. For example, *modified* and *superseded* describes a situation where the substance of a previously published ruling is being changed in part and is continued without change in part and it is desired to restate the valid portion of the previously published ruling in a new ruling that is self contained. In this case the previously published ruling is first modified and then, as modified, is superseded.

Supplemented is used in situations in which a list, such as a list of the names of countries, is published in a ruling and that list is expanded by adding further names in subsequent rulings. After the original ruling has been supplemented several times, a new ruling may be published that includes the list in the original ruling and the additions, and supersedes all prior rulings in the series.

Suspended is used in rare situations to show that the previous published rulings will not be applied pending some future action such as the issuance of new or amended regulations, the outcome of cases in litigation, or the outcome of a Service study.

Abbreviations

The following abbreviations in current use and formerly used will appear in material published in the Bulletin.

A—Individual.
Acq.—Acquiescence.
B—Individual.
BE—Beneficiary.
BK—Bank.
B.T.A.—Board of Tax Appeals.
C.—Individual.
C.B.—Cumulative Bulletin.
CFR—Code of Federal Regulations.
CI—City.
COOP—Cooperative.
Ct.D.—Court Decision.
CY—County.
D—Decedent.
DC—Dummy Corporation.
DE—Donee.
Del. Order—Delegation Order.
DISC—Domestic International Sales Corporation.
DR—Donor.
E—Estate.
EE—Employee.
E.O.—Executive Order.
ER—Employer.
ERISA—Employee Retirement Income Security Act.
EX—Executor.
F—Fiduciary.
FC—Foreign Country.
FICA—Federal Insurance Contribution Act.
FISC—Foreign International Sales Company.
FPH—Foreign Personal Holding Company.
F.R.—Federal Register.
FUTA—Federal Unemployment Tax Act.
FX—Foreign Corporation.
G.C.M.—Chief Counsel's Memorandum.
GE—Grantee.
GP—General Partner.
GR—Grantor.
IC—Insurance Company.
I.R.B.—Internal Revenue Bulletin.
LE—Lessee.
LP—Limited Partner.
LR—Lessor.
M—Minor.
Nonacq.—Nonacquiescence.
O—Organization.
P—Parent Corporation.
PHC—Personal Holding Company.
PO—Possession of the U.S.
PR—Partner.
PRS—Partnership.
PTE—Prohibited Transaction Exemption.
Pub. L.—Public Law.
REIT—Real Estate Investment Trust.
Rev. Proc.—Revenue Procedure.
Rev. Rul.—Revenue Ruling.
S—Subsidiary.
S.P.R.—Statements of Procedral Rules.
Stat.—Statutes at Large.
T—Target Corporation.
T.C.—Tax Court.
T.D.—Treasury Decision.
TFE—Transferee.
TFR—Transferor.
T.I.R.—Technical Information Release.
TP—Taxpayer.
TR—Trust.
TT—Trustee.
U.S.C.—United States Code.
X—Corporation.
Y—Corporation.
Z—Corporation.

Numerical Finding List[1]

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[1] A cumulative list of all revenue rulings, revenue procedures, Treasury decisions, etc., published in Internal Revenue Bulletins 1998–1 through 1998–28 will be found in Internal Revenue Bulletin 1998–29, dated July 20, 1998.

Finding List of Current Action on Previously Published Items[1]

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*Denotes entry since last publication

[1] A cumulative finding list for previously published items mentioned in Internal Revenue Bulletins 1998–1 through 1998–28 will be found in Internal Revenue Bulletin 1998–29, dated July 20, 1998.

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